**IN THE HIGH COURT OF UTTARANCHAL**
**AT NAINITAL.**

**CIVIL REVISION NO. 250/2001**
**(Old No. 499 of 1995)**

Collector, Dehradun & Others ..... Appellants.

Versus

Viresh Jain . ..... Opp. Party.

Dated: August 17,2004.

**HON'BLE RAJESH TANDON J.**

By the impugned order the applicants have challenged the order dated 28.10.1995 by which stay of the execution under order XXI Rule 26 C.P.C. has been refused.

Briefly stated in pursuance of the execution of the decree in Land Acquisition Case No.384/1993, J.D. has stated that he is preferring the Appeal and therefore, has prayed for stay under order 21 Rule 26 C.P.C.

Order XXI Rule 26 C.P.C. reads as under :

26. **When Court may stay execution-**

(1) The Court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree for a

reasonable time, to enable the judgement debtor to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay execution, or for any other order relating to the decree or execution which might have been made by such court of first instance of Appellate Court if execution had been issued thereby, or if application for execution had been made thereto.

(2) Where the property or person of the judgment debtor has been seized under an execution, the court which issued the execution ma order the restitution of such property or the discharge of such person pending the result of the application.

(3) Power to require security from, or impose conditions upon, judgment debtor – Before making an order to stay execution, or for the restitution of property or the discharge of the judgment debtor, [the Court shall require] such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

The learned J.S.C.C. has found that the ingredients of order XXI Rule 26 C.P.C. are not satisfied, therefore, Rule 26 has no application at all. The application has been rejected. I find no jurisdictional error in the order.

The revision is dismissed. No order as to costs.

August 17,2004 **(Hon'ble Rajesh Tandon J)**
S.S.Negi.